

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 22-CR-20

TONY A. FISH, JR.,

Defendant.

ORDER DENYING SENTENCE REDUCTION

On January 19, 2022, Tony A. Fish, Jr. was charged with Assault with a Dangerous Weapon with Intent to Cause Bodily Harm on the Menominee Indian Reservation. Fish was alleged to have struck his wife in the head with a wooden football trophy and then stabbed her with a knife after she threw the trophy back at him. Fish's wife was treated for a large contusion associated with a 5 cm stellate laceration to the left side of her head and a 5 cm laceration extending from the back of her right hand around on the "pinkie" side to the middle of her palm. That laceration was deep enough to injure the muscle connecting her little finger and was closed with 14 stitches. Doctors used 3 stitches and 7 staples to close the wound on Mrs. Fish's head.

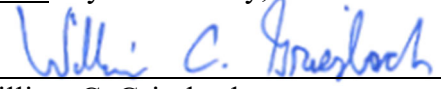
The case was set for a jury trial on April 4, 2022, but on April 1, 2022, a Plea Agreement was filed indicating that Fish was going to plead guilty to the Assault with a Dangerous Weapon offense. On April 4, 2022, however, Fish advised that he no longer wanted to plead guilty, and the case was again set for trial. On May 13, 2022, Fish failed to appear for his final pre-trial conference and a warrant was issued for his arrest. Just prior to the pre-trial conference, Fish had cut off his location monitoring bracelet in Sheboygan and disappeared. His whereabouts were unknown for approximately a week, until he was taken into custody and held in detention. Fish eventually pleaded guilty to a charge of Failure to Appear in violation of 18 U.S.C. § 3146(a)(1)

punishable by up to 5 years imprisonment. On August 26, 2022, the court imposed a sentence of 4 years, or 48 months. The case is now before the court on Fish's motion to reduce his sentence pursuant to 18 U.S.C. § 3582(a)(2). Fish claims he is entitled to a reduction under Amendment 821 to the United States Sentencing Guidelines.

Fish's motion is denied. Amendment 821 had no impact upon the sentence range determined by the court at the time of Fish's sentencing. Based upon a total offense level of 10 and a Criminal History Category of VI, the sentence range was between 24 months and 30 months. The court imposed a 48-month sentence because of the aggravating factors concerning Fish's underlying crime. Specifically, the court concluded that his violent assault of his wife, which inflicted a serious injury, along with his contacts with her in order to obtain her non-cooperation, warranted a sentence above the Guideline range. Fish filed a notice of appeal but later moved for its dismissal. Since he did not appeal the original sentence and Amendment 821 had no impact upon the sentence range, he is not entitled to relief at this time. Accordingly, his motion for a sentence reduction is denied.

In addition, Fish has filed a pro se motion for a due process hearing in which he claims he was denied the opportunity to enter a plea and that the court imposed a sentence without granting him fundamental due process rights. The court has reviewed the entire record in his case and finds that it belies any claim that he did not knowingly and voluntarily enter a plea of guilty to the charge of Failure to Appear. Accordingly, his motion for a due process hearing, Dkt. No. 50, is also denied.

SO ORDERED at Green Bay, Wisconsin this 28th day of February, 2025.



William C. Griesbach
United States District Judge